

E-Filed 5/12/09

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

RONALD A. LOCKE,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of Social
Security,

Defendant.

Case Number C 08-1608 JF (HRL)

ORDER RE PENDING MOTIONS
AND FUTURE FILINGS

[re: document nos. 4, 6, 8, 11, 12, 14,
24, 25, 29, 34, 39, 42, 49, 52]

On March 25, 2008, Plaintiff, proceeding *pro se*, filed the complaint in this action alleging wrongful denial of benefits by Defendant. Plaintiff subsequently filed a number of motions, including motions seeking: leave to file a brief [doc. no. 4], judicial notice [doc. no. 6], summary declaratory judgment [doc. no. 8], estoppel re multiple issues [doc. no. 11], hardship relief [doc. no. 12], medical records [doc. no. 14], summary judgment [doc. no. 24], an order striking response [doc. no. 25], summary declaratory judgment [doc. no. 29], entry of default and default judgment [doc. no. 34], findings of fact and conclusions of law [doc. no. 39], and leave to amend his brief [doc. nos. 49, 52]. Defendant has filed a motion to dismiss for lack of subject matter jurisdiction [doc. no. 42].

1 Plaintiff's motion for leave to file a brief [doc. no. 4] is GRANTED. The Court will
2 consider the brief submitted by Plaintiff and entered into the docket as doc. no. 5.

3 Plaintiff's motion for judicial notice [doc. no. 6] is DENIED. Plaintiff requests judicial
4 notice of a prior decision of an administrative law judge, but does not attach the decision in
5 question.

6 Plaintiff's motions for summary declaratory relief and summary judgment [doc. nos. 8,
7 24, 29] are DENIED. Plaintiff has not demonstrated his entitlement to summary judgment in this
8 matter.

9 Plaintiff's motion for estoppel [doc. no. 11] is DENIED. Plaintiff has not demonstrated a
10 basis for estoppel as to any factual or legal issues.

11 Plaintiff's motion for hardship relief [doc. no. 12] is DENIED. Plaintiff appears to be
12 requesting that the Court immediately order payment of benefits; however, based on the current
13 record Plaintiff has not demonstrated an entitlement to benefits.

14 Plaintiff's motion for medical records [doc. no. 14] is unclear. To the extent that Plaintiff
15 requests the Court to consider his medical records, the Court of course will consider any medical
16 records properly made part of the record in this case. To the extent that Plaintiff is requesting
17 some other form of relief, his request is unclear and the motion is DENIED.

18 Plaintiff's motions to strike Defendant's response and for entry of default and default
19 judgment [doc. nos. 25, 34] are DENIED. Those motions were filed before service of process
20 was effected upon Defendant.

21 Plaintiff's motion for findings of fact and conclusions of law [doc. no. 39] is DENIED.
22 The motion is inappropriate given the procedural posture of the case at this time.

23 Plaintiff's motions for leave to amend his briefs [doc. nos. 49, 52] are GRANTED.

24 Defendant's motion to dismiss for lack of subject matter jurisdiction [doc. no. 42]
25 remains pending. To the extent that Plaintiff intends his motions for leave to amend his briefs
26 [doc. nos. 49, 52] to constitute opposition to Defendant's motion, the Court will consider
27 Plaintiff's filings when adjudicating Defendant's motion. Pursuant to the briefing schedule
28 issued on April 23, 2009, Plaintiff's opposition to Defendant's motion to dismiss must be filed

1 on or before May 22, 2009. Any reply brief must be filed on or before June 12, 2009. The
2 matter thereafter will be submitted without oral argument.

3 Because subject matter jurisdiction – the issue raised in Defendant’s motion – must be
4 established before this Court has authority to reach any substantive issues, the parties shall
5 restrict their filings in this case to the opposition and reply briefs authorized above. No other
6 motions, requests or filings will be considered until Defendant’s motion to dismiss for lack of
7 subject matter jurisdiction is fully briefed and adjudicated.

8 IT IS SO ORDERED.

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13 DATED: 5/12/09

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15 JEFFREY FOGEL
16 United States District Judge
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Copies of Order served on:

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